CR No.35 of 2007.

8.5.2007. Present: Mr. P.M. Negi, Dy. Advocate General, for the State-petitioner.

Ms. Bindiya Sharma, Advocate, for the respondent.

Vide the impugned order dated 28th September, 2006, the learned Civil Judge (Junior Divisin), Nadaun has struck off the defence of the petitioner-defendant-State of Himachal Pradesh because of its failure to file the written statement despite availing several opportunities for this purpose and despite the fact that more than 90 days had expired since the date of appearance of the defendant in the suit. It is the admitted case of the petitioner-defendant that for the first time it had appeared in the suit in the trial Court on 14th June, 2006. No written statement was filed on that date. The written statement was not filed even within 30 days from 14th June, 2006.

The period of 90 days starting from 14th June, 2006 naturally expired on 13th September, 2006, yet the written statement was not filed.

The case was listed before the learned trial Court on 28th September, 2006. This was admittedly beyond the period of 90 days and yet on that date also the written statement was not filed.

In the present revision petition filed under Section 115 of the Code of Civil Procedure the first part deals with "brief facts of the case". The first part clearly reveals that at various levels there has been lapse(s) on the part of the various functionaries who had been dealing with the matter carelessly and callously.

Even though the petitioner has been utterly careless and callous in not filing the written statement within the prescribed period of 30 days and the outer limit of 90 days and even though no convincing reason has been given warranting the extension of the period beyond 90 days, in the interest of justice, I set aside the impugned order and permit the petitioner to file the written statement in the trial Court on the following conditions:-

(1) The written statement shall be filed before 15th May, 2007.

(2) This is subject to the petitioner paying Rs.15,000/- as costs to the respondent before 15th May, 2007.

(3) If either of the aforesaid is not done within the aforesaid period this order shall cease to operate with the result that the impugned order dated 28th September, 2006 shall become fully operational.

(4) The Government of Himachal Pradesh in the Revenue Department may enquire into the whole matter leading to the

aforesaid lapse and by pin pointing the responsibility on the defaulting official(s) may take steps to recover the costs amount accordingly.

The petition is disposed of.

CMP No.148 of 2007.

In view of the disposal of the revision petition, this application is disposed of. Interim order dated 22nd March, 2007 shall stand vacated.

8th May, 2007. (V.K. Gupta),C.J.
(KS)